



DEPARTMENT OF VETERANS AFFAIRS

PRIVACY ACT OF 1974; SYSTEM OF RECORDS

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a Modified System of Records.

SUMMARY: As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled “Agent Orange Registry-VA” (105VA131) as set forth in 68 FR 75025. VA is amending the system of records by revising the System Number; System Location; System Manager; Authority for Maintenance of the System; Categories of Individuals Covered by the System; Categories of Records in the System; Routine Uses of Records Maintained in the System and Policies; Policies and Practices for Storage of Records; Policies and Practices for Retention and Disposal of Records; Administrative, Technical, and Physical Safeguards; Record Access Procedure; and Notification Procedure. VA is republishing the system notice in its entirety.

DATES: Comments on this amended system of records must be received no later than **[Insert date 30 days after date of publication in the Federal Register]**. If no public comment is received during the period allowed for comment or unless otherwise published in the Federal Register by the VA, the new system will become effective **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Written comments may be submitted through www.Regulations.gov; by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1064, Washington, DC 20420; or by fax to (202) 273-9026 (Note: not a toll-free number). Comments should indicate they are submitted in response to “Agent Orange Registry-VA”. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment (Note: not a toll-free number). In addition, comments may be viewed online at www.Regulations.gov.

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; telephone (704) 245-2492 (Note: not a toll-free number).

SUPPLEMENTARY INFORMATION: The System Number is changed from 105VA131 to 105VA10P4Q to reflect the current organizational alignment.

The System Location is being amended to change the Austin Automation Center (AAC) to the Austin Information Technology Center (AITC). This section is being amended to remove “narratives, signatures, etc., noted on the code sheets are not entered into this system, images of the code sheets are maintained at the Department of Veterans Affairs, Environmental Agents Service (131), 810 Vermont Avenue, NW, Washington, DC 20420. These are electronic images of paper records, i.e., code

sheets, medical records, questionnaires and correspondence that are stored on optical disks. The optical disk system is currently being utilized where there is no access to the secure web-based system. The optical disk system is scheduled to be discontinued in 2004 and all access to the Agent Orange Registry (AOR) system will be through the secure web-based data entry system.”

System Manager is being amended to replace Director, Environmental Agents Service (131), Office of Public Health and Environmental Hazards, (clinical issues) and Management/Program Analyst, Environmental Agents Service (131) (administrative issues), with Deputy Chief Consultant, Post Deployment Health Services (10P4Q).

Authority for Maintenance of the System is being amended to replace Title 38, United States Code (U.S.C.) 1710(e)(1)(B) and 1720E with Public Law No: 102-4, 38 USC. 527, 38 USC 1116, Public Law 102-585 Section 703, and Public Law 100-687.

Categories of Individuals Covered by the System is being amended to remove number 4. Have had an AOR examination at a VA medical facility. This section is being amended to include numbers 4. Exposure to Agent Orange in Vietnam Exposure on land in Vietnam or on a ship operating on the inland waterways of Vietnam between January 9, 1962 and May 7, 1975. 5. C-123 Airplanes and Agent Orange Residue, C-123 Reservists who were assigned to flight, ground or medical crew duties at Lockbourne/Rickenbacker Air Force Base in Ohio (906th and 907th Tactical Air Groups or 355th and 356th Tactical Airlift Squadron), Westover Air Force Base in Massachusetts (731st Tactical Air Squadron and 74th Aeromedical Evacuation Squadron) or Pittsburgh, Pennsylvania, International Airport (758th Airlift Squadron) during the period 1969 to 1986. 6. Blue Water Veterans, possible exposure on open

sea ships off the shore of Vietnam during the Vietnam War. Ship categories include the following: (1) Ships operating primarily or exclusively on Vietnam's inland waterways; (2) Ships operating temporarily on Vietnam's inland waterways; (3) Ships that docked to shore or pier in Vietnam; (4) Ships operating on Vietnam's close coastal waters for extended periods with evidence that crewmembers went ashore; and (5) Ships operating on Vietnam's close coastal waters for extended periods with evidence that smaller craft from the ship regularly delivered supplies or troops ashore. The list of U.S. Navy and Coast Guard ships that operated in Vietnam can be viewed at this link: https://www.benefits.va.gov/compensation/claims-postservice-agent_orange.asp. 7. Korean Demilitarized Zone exposure along the demilitarized zone in Korea between April 1, 1968 and August 31, 1971 and 9. Thailand Military Bases exposure on or near the perimeters of military bases between February 28, 1961 and May 7, 1975.

The Categories of Records in the System is being amended to add VA medical facility where the Veteran had the AOR examination.

The Routine Uses of Records Maintained in the System has been amended to change Joint Commission for Accreditation of Healthcare Organizations (JCAHO) to The Joint Commission in Routine use #8.

Routine Use #9 is amending the language which states that disclosure of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for

which VA collected the records. This routine use will now state that release of the records to the DoJ is limited to circumstances where relevant and necessary to the litigation. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that release of the records to the court or administrative body is limited to circumstances where relevant and necessary to the litigation.

Routine Use #11 is clarifying the language to state, “VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.”

Routine use #12 is being added to state, “VA may disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.”

Routine use #13 is also being added to state, "VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement." This routine use includes disclosures by an individual or entity performing services for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

Policies and Practices for Storage of Records is being amended to remove, "In 2003, the data collection process moved to a secure web-based system. Data previously recorded manually and converted to electronic format is now input through the secure VA Intranet system. In addition to electronic data, registry reports are maintained on paper documents and microfiche. The optical disk system is currently being utilized where there is no access to the secure web-based system. The optical disk system is scheduled to be discontinued in 2004 and all access to the AOR system will be through the secure web-based data entry system. Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States." This section is also being amended to change the Austin Automation Center (AAC) to the Austin Information Technology Center (AITC).

Policies and Practices For Retention and Disposal of Records is being amended to replace, "Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States." with "Maintain these records per Record Control Schedule (RCS) 10-1 Subject Identification Code (SIC) 1203 series, these records are permanent records per N1-015-01-3, Item 3a and are to be transferred in 5 year block to the National Archives and Records Administration (NARA)".

Administrative, Technical, and Physical Safeguards is being amended to include the registry is stored on a password protected system located in a locked room. Registry application is Web-based and accessible behind the VA firewall. Access to the facility is limited by Personal Identity Verification access, security card, metal scanners at the entrance, and security guards. This section is also being amended to change the Austin Automation Center (AAC) to the Austin Information Technology Center (AITC).

The Record Access Procedure and Notification Procedure are being amended to replace Director, Environmental Agents Service (131) or the Management/Program Analyst, Environmental Agents Service (131) with Deputy Chief Consultant, Post Deployment Health Services (10P4Q).

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority: The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. James P. Gfrerer, Assistant Secretary for Information and Technology and Chief Information Officer, Department of Veterans Affairs, approved this document on May 13, 2019 for publication.

Dated: February 4, 2020.

Amy L. Rose,
Program Analyst,
VA Privacy Service,
Department of Veterans Affairs.

SYSTEM NAME AND NUMBER: Agent Orange Registry-VA (105VA10P4Q)

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Character-based data from Agent Orange Registry (AOR) are maintained in a registry database at the Austin Information Technology Center (AITC), 1615 Woodward Street, Austin, Texas 78772. The secure Web-based data entry system is maintained by the AITC and provides retrievable images to users.

SYSTEM MANAGER(S): Deputy Chief Consultant, Post Deployment Health Services (10P4Q), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Public Law No: 102-4, Title 38 United States Code 527, Title 38 United States Code 1116, Public Law 102-585 Section 703, and Public Law 100-687.

PURPOSE(S) OF THE SYSTEM: The purpose of this AOR system of records is to provide information about: Veterans who have had an AOR examination at a VA facility; to assist in generating hypotheses for research studies; provide management with the capability to track patient demographics; reported birth defects among Veterans' children; dioxin-related diseases; planning and delivery of healthcare services and associated costs; and with relation to claims for compensation which may assist in the adjudication of claims possibly related to herbicide exposure although more comprehensive medical records are required for evaluation of subject claims.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Categories of individuals covered include Veterans who may have been exposed to dioxin or other toxic substance in a herbicide or defoliant during multiple periods and locations. These categories of Veterans are described below:

1. Veterans with active military service in the Republic of Vietnam between 1962 and 1975.
2. Veterans with active military service in the Republic of Korea between 1968 and 1969.
3. Veterans that may have come in contact as a result of testing, transporting or spraying herbicides for military purposes.
4. Veterans with possible exposure to Agent Orange in Vietnam on land in or on a ship operating on the inland waterways of Vietnam between January 9, 1962 and May 7, 1975.
5. Veterans with possible exposure to C-123 Airplanes and Agent Orange Residue as C-123 Reservists who were assigned to flight, ground or medical crew duties at Lockbourne/Rickenbacker Air Force Base in Ohio (906th and 907th Tactical Air Groups or 355th and 356th Tactical Airlift Squadron), Westover Air Force Base in Massachusetts (731st Tactical Air Squadron and 74th Aeromedical Evacuation Squadron) or Pittsburgh, Pennsylvania, International Airport (758th Airlift Squadron) during the period 1969 to 1986.
6. Blue Water Veterans with possible exposure on open sea ships off the shore of Vietnam during the Vietnam War. Ship categories include the following: (1) Ships operating primarily or exclusively on Vietnam's inland waterways; (2) Ships operating

temporarily on Vietnam's inland waterways; (3) Ships that docked to shore or pier in Vietnam; (4) Ships operating on Vietnam's close coastal waters for extended periods with evidence that crewmembers went ashore; and (5) Ships operating on Vietnam's close coastal waters for extended periods with evidence that smaller craft from the ship regularly delivered supplies or troops ashore. The list of U.S. Navy and Coast Guard ships that operated in Vietnam can be viewed at this link:

https://www.benefits.va.gov/compensation/claims-postservice-agent_orange.asp.

7. Veterans with Korean Demilitarized Zone exposure along the demilitarized zone in Korea between April 1, 1968 and August 31, 1971.

8. Veterans with Thailand Military Bases exposure on or near the perimeters of military bases between February 28, 1961 and May 7, 1975.

CATEGORIES OF RECORDS IN THE SYSTEM: These records may contain the following information: VA facility code identifier where the Veteran was examined or treated; VA medical facility where the Veteran had the AOR examination; Veteran's name; address; social security number; military service serial number; claim number; date of birth; race/ethnicity; marital status; sex; branch of service; periods of service; areas of service in Vietnam; list of military units where Veteran served; method of exposure to herbicides; Veteran's self-assessment of health; date of registry examination; Veteran's complaints/symptoms; reported birth defects among Veteran's children; consultations; diagnoses; disposition (hospitalized, referred for outpatient treatment, etc.) and name and signature of examiner/clinician coordinator, when available.

RECORD SOURCE CATEGORIES: VA patient health records, various automated record systems providing clinical and managerial support to VA healthcare facilities, the Veteran, family members, and records from the Veterans Benefits Administration, Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy and other Federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: To the extent that records contained in the system include information protected by 45 CFR Parts 160 and 164, *i.e.*, individually identifiable health information, and 38 U.S.C. 7332, *i.e.*, medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR Parts 160 and 164 permitting disclosure.

1. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member or staff person requests the record on behalf of and at the written request of the individual.
2. Disclosure of records covered by this system, as deemed necessary and proper to named individuals serving as accredited service organization representatives, and other individuals named as approved agents or attorneys for a documented purpose and period of time, to aid beneficiaries in the preparation and presentation of their cases

during the verification and/or due process procedures, and in the presentation and prosecution of claims under laws administered by VA.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances: (a) To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and (b) To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

4. Disclosure may be made to NARA and General Services Administration (GSA) in records management inspections conducted under authority of Title 44, Chapter 29, of the U.S.C. NARA and GSA are responsible for management of old records no longer actively used, but which may be appropriate for preservation, and for the physical maintenance of the Federal Government's records.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requestor) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

6. To conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel or the Armed Services and/or their dependents may be disclosed (a) To a Federal department or agency, or (b) Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to insure the appropriateness of the disclosure to the contractor.

7. VA may disclose any information in this system, except the names and home addresses of Veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

8. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of The Joint Commission, College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct

such reviews but only to the extent that the information is necessary and relevant to the review. VA healthcare facilities undergo certification and accreditation by several national accreditation agencies or boards to comply with regulations and good medical practices.

9. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is limited to circumstances where relevant and necessary to the litigation. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that release of the records to the court or administrative body is limited to circumstances where relevant and necessary to the litigation.

10. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

11. VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in

connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

12. VA may disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

13. VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Data are stored electronically on a Web server hosted by the AITC. Three levels of access are provided for the data that is input, using password security linked to the AITC Top Secret Security system, with mandated changes every 90 days. AITC stores registry tapes for disaster back up at an off-site location.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are retrieved by name of Veteran and social security number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Maintain these records per Record Control Schedule (RCS) 10-1 Subject Identification Code (SIC) 1203 series, these records are permanent records per N1-015-01-3, Item 3a and are to be transferred in 5-year blocks to NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Registry data maintained at the AITC can only be updated by authorized AITC personnel. The registry is stored on a password protected system located in a locked room. Registry application is Web-based and accessible behind the VA firewall. Access to the facility is limited by Personal Identity Verification access, security card, metal scanners at the entrance, and security guards.

Data are securely located behind the VA firewall and only accessible from the VA Local Area Network (LAN) through the VA Intranet. AITC reports are also accessible through a telecommunications network on a read-only basis to the owner (VA facility) of the data. Access is limited to authorized employees by individually unique access codes which are changed periodically.

Physical access to the AITC is generally restricted to AITC staff, VA Central Office staff, custodial personnel, Federal Protective Service and authorized operational personnel through electronic locking devices. All other persons gaining access to the

computer rooms are escorted. Backup records are stored off-site and safeguarded in secured storage areas. A disaster recovery plan is in place and system recovery is tested at an off-site facility in accordance with established schedules.

RECORD ACCESS PROCEDURE: An individual who seeks access to records maintained under his or her name may write or visit the nearest VA facility or write to the Deputy Chief Consultant, Post Deployment Health Services (10P4Q), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420.

CONTESTING RECORD PROCEDURES: (See Record Access Procedures above.)

NOTIFICATION PROCEDURE: An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where medical care was provided or submit a written request to the Deputy Chief Consultant, Post Deployment Health Services (10P4Q), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420. Inquiries should include the Veteran's name, social security number and return address.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: Last full publication provided in 68 FR 75025 dated December 29, 2003.

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